

Code of conduct for Commissioners (24 November 2004)

Caption: At its first meeting on 24 November 2004, the Barroso Commission adopted a code of conduct for Commissioners.

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Code of conduct for Commissioners

Introduction

The Treaty articles on the Commission make special reference to the complete independence enjoyed by the Members of the Commission, who are required to discharge their duties in the general interest of the Community. In the performance of their duties they must neither seek nor take instructions from any government or from any other body.

In addition, the general interest requires that in their official and private lives Commissioners should behave in a manner that is in keeping with the dignity of their office. Ruling out all risks of a conflict of interests helps to guarantee their independence (section 1).

The general interest also requires that Commissioners establish good working relations, based on loyalty, trust and transparency, with their departments (section 2).

1. Independence and dignity : ethical issues

1.1. Private activities

1.1.1. Outside activities

Commissioners may not engage in any other professional activity, whether paid or unpaid. (For example, writing a regular column is regarded as a professional activity whereas giving courses free of charge in the interests of European integration on the other hand is permitted).

Commissioners shall notify the President if they are intending to publish a book during their term as Commissioner. Royalties from copyright in a work published in connection with their duties shall be paid over to a charity of their choice.

Commissioners may not accept any form of payment for delivering speeches or taking part in conferences.

Commissioners may hold honorary, unpaid posts in political, cultural, artistic or charitable foundations or similar bodies. They may also hold such posts in educational institutions. "Honorary posts" means posts in which the holder has no decision-making power in the management of the body in question. "Foundations or similar bodies" means non-profit-making organisations or associations which engage in activity in the public interest in the fields mentioned. Posts held on these terms shall under no circumstances involve any risk of a conflict of interest. They shall be listed in a declaration, laid down according to the model in annex to this Code.

The declaration must relate to activities engaged in over the last ten years and must distinguish between activities which ended before the Member of the Commission took up office and those which will continue after that point.

Courses given free of charge in the interests of European integration are the only other outside activities that are permitted, and do not have to be declared.

Commissioners may be active members of political parties or trade unions, provided that this does not compromise their availability for service in the Commission.

Commissioners shall inform the President of their intention to participate in an election campaign and the role they expect to play in that campaign. The President, taking into account the particular circumstances of the case, shall decide on whether the envisaged participation in the election campaign is compatible with the performance of the Commissioner's duties.

Commissioners standing for election to public office shall also inform the President of their intended level of participation in the election campaign. If their intention is to play an active role in the election campaign, they must withdraw from the work of the Commission for the duration of the campaign.

Commissioners may not hold any public office of whatever kind.

Whenever Commissioners intend to engage in an occupation during the year after they have ceased to hold office, whether this be at the end of their term or upon resignation, they shall inform the Commission in good time. The Commission shall examine the nature of the planned occupation. If it is related to the content of the portfolio of the Commissioner during his/her full term of office, the Commission shall seek the opinion of an ad hoc ethical committee. In the light of the committee's findings it will decide whether the planned occupation is compatible with the last paragraph of Article 213(2) of the Treaty.

1.1.2. Financial interests and assets

Commissioners must declare any financial interest or asset which might create a conflict of interests in the performance of their duties. The declaration shall include any holdings by the Commissioner's spouse which might entail a conflict of interests.

The financial interests which must be declared are any form of individual holding in company capital. This therefore includes shares but also any other form of holding such as convertible bonds or investment certificates.

Units in unit trusts, which do not constitute a direct interest in company capital, do not have to be declared.

Any property owned either directly or through a real estate company must be declared, with the exception of homes reserved for the exclusive use of the owner or his/her family.

Other property whose possession could create a conflict of interests, especially from a tax point of view, must also be declared.

1.1.3. Activities of spouses

To obviate any potential risk of a conflict of interests, Commissioners are required to declare the professional activities of their spouses.

The declaration must state the nature of the activity or the title of the position held and, if applicable, the name of the employer.

1.1.4. Declaration of interests

The attached form includes all information that Members of the Commission are required to declare under the Code of Conduct. It must be completed when the Member of the Commission takes office and revised during his or her term of office if the information changes.

Declarations shall be scrutinised under the authority of the President and with due regard for Members' areas of responsibility. These declarations shall be made public.

1.2. Activities within the performance of their duties

1.2.1. Resignation of Commissioners

A Member of the Commission shall resign if the President so requests.

1.2.2. Collective responsibility and confidentiality

Out of respect for the principle of collective responsibility, Commissioners shall not make any comment which would call into question a decision taken by the Commission. They shall also refrain from disclosing what is said at meetings of the Commission.

1.2.3. Rules for missions

Missions are defined as travel by a Commissioner on Commission business away from the Commission's place of work. They are governed according to the rules in annex.

1.2.4. Rules governing receptions and professional representation

The rules governing receptions and professional representation are laid down in the Commission decision of 19 September 1979 (COM(79) 507). Where entertainment expenses are not covered by this decision, they will be met by the Commissioner from the flat-rate entertainment allowance provided for in the regulation laying down the emoluments of the Members of the Commission.

1.2.5. Acceptance of gifts, decorations or honours

Commissioners shall not accept any gift with a value of more than EUR 150. When, in accordance with diplomatic usage, they receive gifts worth more than this amount, they shall hand them over to the Commission's Protocol department. In case of doubt as to the value of a gift, an evaluation shall be undertaken under the authority of the Director of the Office for Infrastructure and Logistics in Brussels, whose decision on the matter shall be final.

The Commission's Protocol department shall keep a public register of gifts with a value of more than EUR 150.

Commissioners shall notify the President of the Commission of any decoration, prize or honour awarded to them.

2. Loyalty, trust and transparency : the commissioners and departments

2.1. Principles

The Treaty establishing the European Community and legislation adopted pursuant to that Treaty ("secondary legislation") confer on the Commission several duties, such as:

- acting as guardian of the Treaty and the provisions taken by the institutions under it;
- exercising the powers of initiative regarding acts of the Community legislator and non-legislative acts of the Council;
- formulating recommendations or opinions on matters covered by the Treaty;
- taking decisions in its own right;

- exercising the powers conferred by the Council or the legislator in order to apply the rules of secondary legislation;
- implementing the budget and in particular acting as authorising officer, a task it can delegate to officials, as a general rule the Directors-General or Heads of Service, subject to the Staff Regulations and the rules applicable to other servants, the Financial Regulation, the Rules of Procedure and the rules laid down as part of the administrative and financial reform of the Commission.

To this end, the Commission acts collectively on the basis of the political guidelines set by the President. The chain of responsibility runs from the level of the College to the level of the Commissioner, who is answerable to the College for his/her activities and those of his/her departments. The Commissioner lays down, in the light of the guidelines and work programme of the Commission and the principle of collegiality, the policy guidelines and priorities relating to his/her portfolio. He/she shall ensure that it is implemented by his departments, supervising the management of his/her Director-General or Head of Service (hereinafter the Director-General) and giving him/her, where necessary, the guidelines or general instructions to put these policies and priorities into practice.

The chain of responsibility continues down to department level in the person of the Director-General, who is answerable to the Commissioner and the College for the proper implementation of the guidelines set by the College and the Commissioner and, in particular, for the management of the Directorate-General or Service in line with the distribution of powers as defined by the Staff Regulations, the Financial Regulation, the Rules of Procedure and the rules laid down as part of the administrative and financial reform of the Commission¹.

In order to exercise his/her political responsibility and play his/her supervisory role, the Commissioner must receive the appropriate information from his own departments and the central departments, including information with regard to the quality of internal control put in place in his/her departments. This exercise does not in any way release the Director-General from his/her duty of informing specifically the Commissioner of any fact, situation or matter relating to the management, in particular, financial management, which could have a serious impact on his/her responsibility or that of the College.

The working arrangements made by each Commissioner in agreement with his/her departments and the methods for circulating information between them are transmitted, by way of information to the Head of the President's cabinet and to the Secretary-General. Either of these may ask for further information and/or clarification.

Relations between Commissioners (their Cabinets) and departments are based first and foremost on loyalty, trust and transparency.

In addition to these general principles, the activities of Cabinets and departments are assigned with a view to complementing each other along the following lines.

2.2. The Cabinet, an adjunct to the Commissioner

The cabinet is an adjunct to the Commissioner. All information duly communicated to the cabinet in accordance with the working arrangements referred to above is information for the Commissioner.

(1) The Cabinet shall first and foremost help to ensure that the principle of collective responsibility operates correctly by keeping the Commissioner informed about matters outside his or her own area of competence. In this connection it shall play an active role in the preparation of Commission meetings and ask questions and express points of view on behalf of the Commissioner on the items tabled for a decision. It shall also inform departments about the Commission's proceedings especially when they have a direct impact on the departments' own activities.

(2) While avoiding any overlapping with the work of the departments, the Cabinet shall assist the Commissioner with the content and the policy priorities of his or her portfolio, and, in particular, ensure that the Commissioner is kept abreast of the information transmitted by departments in relation to matters of budgetary and financial management. It shall take part in the major stages of policy formulation by consulting the departments on the priorities set. The Cabinet shall ensure that priorities and programming are complied with. This monitoring function shall be performed on an across-the-board basis by the member(s) concerned without any direct reflection of the structure and organisation chart of the Directorate-General in question. The Cabinet shall inform departments about decisions taken by the Commissioner. It shall prepare the ground for political agreement by the College at the final decision-making stage.

(3) In the interests of efficiency the Chef de cabinet and the Director-General shall keep each other fully informed about contacts with the outside on matters falling within the portfolio.

(4) The members of the Cabinet shall represent the Commissioner at political level outside the institution, in accordance with the Commissioner's instructions. Technical matters falling within the Commissioner's policy area should preferably be handled by departments in order to prevent any duplication of effort.

(5) The Cabinet shall act solely in the interests of the institution in performing its tasks.

(6) The Cabinet shall comply strictly with the Commission's rules on security as contained in the Annex to its Rules of Procedure (see Decision C(2001)3031 of 29/12/2001 – OJ L 317, 3/12/2001).

2.3. The departments

In accordance with the procedures described at point 2.4 below, departments :

(1) shall ensure implementation of the priorities adopted and the guidelines set out at political level. To that end, they shall contribute to or prepare the instruments provided for in the strategic planning and programming cycle² : at the level of the Commission, the decision on the annual policy strategy, the preliminary draft budget and the legislative programme and work programme; at their own level, the annual management plan, which will serve as a reference framework for drafting the activity report at the end of the cycle;

(2) shall help to prepare the policy guidelines the Commissioner has to set, by proposing strategy options, advising the Commissioner on individual political decisions and providing all the necessary background information. The departments shall also provide the Commissioner and his/her cabinet, in accordance with arrangements laid down, with any information necessary for their work, such as draft speeches or briefs;

(3) shall provide the Commissioner with regular and appropriate information on budgetary and financial matters relating to areas of activity under his/her responsibility. In addition, they shall report at any time on any important event in departments, in the Member States or in international bodies that might have an impact on his/her position in the College or on the sound management of appropriations or which could hamper the attainment of the objectives set;

(4) shall coordinate with the Commissioner and his/her cabinet contacts with the outside world.

2.4. Basic rules

In order to ensure that the Institution operates as efficiently as possible on the basis of a permanent contact between Cabinets and departments, these principles shall be applied in accordance with the following rules.

2.4.1. Organisation of the work

In order to ensure effective collaboration and optimum management of the flow of information between

Cabinets and departments, the mission statement and working arrangements must be laid down as soon as the Commissioner takes office.

The Director-General shall organise and coordinate the work of departments in accordance with the guidelines laid down by the Commissioner.

2.4.1.1. Mission statement

The Commissioner shall determine the general policy line for his or her area of responsibility, including the "negative priorities", within the Commission's overall policy framework. In close consultation with the Director-General, this policy line shall then be set out in a mission statement. This mission statement shall be drawn up in the first month of the Commission's term ; it shall be adjusted regularly as the situation changes. The original mission statement and its amendments shall be sent to the President and to the Secretary-General for information. They shall be published in the Directorate-General's intranet website.

The Director-General shall assume full management responsibilities on this basis. The Director-General may ask the Commissioner for written confirmation.

2.4.1.2. Working arrangements and information channels

Working arrangements and information channels shall be laid down in the first month of the Commission's term of office by the Director-General and the Chef de cabinet, who will ensure that they are endorsed by the Commissioner³.

A copy of these arrangements shall be sent to the President's Chef de cabinet and to the Secretary-General for information. They shall be published in the Directorate-General's intranet website.

The annual activity report of a department shall include information on the implementation of the working arrangements and of the mission statement.

These rules must comply with the principles of loyalty, accountability, decentralisation, effectiveness, information and non-interference and cover the following areas :

- Organisation of frequent and regular meetings between the Directorate-General and the Commissioner. At the very least a strategic meeting should be held every two weeks and a meeting on audits and internal control twice a year. In view of the fact that the Commissioner and his/her departments are not installed in the same premises, the Commissioner shall ensure that close contact is maintained with the staff for whom he/she is responsible. The precise manner in which this will be achieved shall be laid down in the working arrangements. At the very least, the Commissioner shall hold an annual meeting with the staff for whom he/she is responsible.
- Channels for requests from the Commissioner and the departments' replies :
- Contact points must be established for political issues and for routine management matters, including matters relating to internal control. Decisions will also have to be taken at the start of the term of office on the arrangements for setting deadlines and for transmitting replies. In the interests of simplification and assumption of responsibility, it is suggested that routine replies, i.e. those involving the Directorate-General's known and established position, should be sent direct by the Unit Head (or Director) to the member of the Cabinet handling the matter with a courtesy copy to the central contact point. Replies involving the determination of a new position or altering a position previously held and those on matters considered sensitive shall be sent by the Director-General to the Commissioner (or, where appropriate, to the Head of cabinet).
- Arrangements will also be made for sharing between the Commissioner's Office and departments responsibility for:

- handling the Commissioner’s mail;
- producing files or briefs and preparing speeches;
- dealing with requests for files or speeches from other Commissioners;
- representing the Commissioner and making travel arrangements;
- monitoring the decisions taken at the regular meetings described above, in particular, decisions relating to audits;
- Increased use of electronic mail should be promoted between departments and Cabinets for the transmission of notes and letters submitted to the Commissioner. As a general rule, Cabinets should print out the electronic documents sent by departments and prepare files for submission to the Commissioner. To safeguard the organisational structure and the information and coordination channels set up, requests sent by a Cabinet to a department for which it is not responsible should in principle go via the Office of the Commissioner responsible. Similarly, departments will, as a rule, refrain from contacting other Cabinets direct; where they do so they will inform their own Cabinet of these contacts.

2.4.1.3. Specific cases of launching new initiatives and handling sensitive information for which the Commissioner and/or the College could be held responsible

Before launching any new initiative, other than on purely routine management matters, the Director-General shall first secure the agreement of the Commissioner, especially if initiating inter-departmental consultations. On matters of major importance joint meetings of Directors-General and Chefs de cabinet may be held.

As stated in point 2.3 above, departments are required to inform the Commissioner of any sensitive information which could call into question his/her responsibility or that of the College. The information is passed on through a formal referral procedure characterised by the following :

- written information giving rise to a formal and rapid reaction from the Commissioner in the form he/she considers most appropriate (personal interview, request for further information);
- on the basis of further discussions or information, the drawing up of a documented action plan, the implementation of which is the subject of specific monitoring provisions agreed between departments and the Commissioner.

On taking office, the Commissioner must be informed of serious situations which had arisen previously and which have not yet been fully resolved. Information on any new situation of that kind that arises during his/her term of office must be provided immediately.

2.4.2. Management of resources

2.4.2.1. Management of financial resources

On taking up office, the Commissioner shall be informed by the departments of the scope, the respective responsibilities, the problems and risks linked to financial management in the Directorate-General or Service. The information shall include a detailed description of the financial circuits in place in the Directorate-General or Service, including internal control arrangements. The Commissioner shall also be informed of the most recent reports of the Court of Auditors, Parliamentary debates relating to the discharge, previous Annual Activity Reports, any comments by the Internal Audit Service (IAS) or the Central Financial Service (CFS), OLAF investigations closed or still ongoing⁴, internal audit reports and progress

made in the implementation of measures or action plans adopted on any of these matters. The Commissioner may, where necessary, ask the Commission to have the IAS carry out an immediate audit on an aspect of the financial management of the Directorate-General.

During the term of office, departments shall send to the Commissioner for approval the main documents relating to the strategic programming cycle⁵.

Moreover, the Commissioner shall be regularly and properly informed of :

- any proposal to make changes in the financial circuits and control systems ; in the event of a disagreement those changes are set out in a proposal to be submitted to the Commission for a decision;
- all audit work (and a related risk assessment) undertaken by the various control bodies (and, in particular, the internal audit capability (IAC), the IAS, the European Court of Auditors the Directorate-General or the Service by way of ex post controls and OLAF). There shall be a meeting on this information at least every six months between the Commissioner and the Director-General, who will give an account of these meetings in the activity report.

Without prejudice to the procedure provided for in point 2.4.1.3 above, departments shall also inform the Commissioner of comments relating to his/her area made by Members of the European Parliament, in particular in written or oral questions, and any allegations of irregularity or fraud brought to the notice of the Director-General.

The aim of this dialogue is to inform the Commissioner before the drafting of the activity report, of any qualifications (comments and/or reservations) which could be added to the declarations. The action plan proposed by the Director-General shall be the subject of a written document and a specific follow-up procedure.

With regard to the budget for administrative appropriations, there shall be strict demarcation between the Directorate-General and the Commissioner's Office in the management of its appropriations, for items such as mission expenses, entertainment expenses, etc.

2.4.2.2. Management of human resources

The guiding principle shall be to apply fully the general rules adopted by the Commission as part of its administrative reform.

For non-management staff appointments shall be the responsibility of the Director-General, acting in conjunction with the Directorate-General for Personnel and Administration as regards the official instruments.

For appointments of Heads of Unit and Advisers, the Director-General shall conduct the selection procedure and choose the most suitable candidate in accordance with the specific procedures adopted by the Commission⁶. He/she shall inform the Commissioner of his/her choice prior to formally adopting the decision in accordance with the AIPN rules.

Appointments to functions of Director General, Deputy Director General, Head of service or equivalent (A*/AD 16, A*/AD 15) and to Director or Principal Adviser (A*/AD 15, A*/AD 14) shall be made in accordance with the specific procedures adopted by the Commission⁷. The Commission is AIPN for these decisions.

Vacancy notices for management posts should be published within no more than three months from when the post falls vacant.

2.4.3. Referral to the President

Should the Commissioner and the Director-General disagree on the application of these principles and rules or differ in their interpretation, they may refer the matter to the President.

¹ Such as specified, in particular, in the following documents/communications :

- Charter of tasks and responsibilities of authorising officers (SEC(2000)2203) ;
- Internal control standards (SEC(2001)2037/4) ;
- Communication of 21/1/2003 - "Clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission" - SEC(2003)59 ;
- Communication of 27 June 2001 – The annual reports and declarations required of Directors-General under the reform of the Commission (Action 82 of the White Paper) - SEC(2001)875/6 ;
- Commission Decision of 4 April 2002 on raising concerns about serious wrongdoings - C(2002)845.

² SEC(2000)1294/4.

³ Concerning Interinstitutional offices, these rules should be established without prejudice to those set out in the basic act establishing the office.

⁴ Except where OLAF has specifically prohibited this.

⁵ See point 2.3.(1) above. This concerns, in particular, contributions to the APS decision, to the preliminary draft budget, to the legislative programme and work programme, and documents linked to those contributions such as budgetary planning (commitments/payments) and the (pre)legislative proposals submitted to the Commission for approval.

⁶ SEC(2004)913 & C(2004)1597-4 and 5 7 SEC(1999)1485 & SEC(2000)2305/5.